



23 APR 2007

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In re Application of  
WANG, et al.  
Serial No.: 10/539,097  
PCT No.: PCT/EP03/50955  
Int. Filing Date: 08 December 2003  
Priority Date: 18 December 2002  
Atty Docket No.: PP/1-22799/A/PCT  
For: PROCESS FOR THE PREPARATION OF A  
MELAMINE BASED FLAME RETARDANT  
AND POLYMER COMPOSITION

DECISION ON RENEWED

PETITION UNDER

37 CFR 1.47(b)

This decision is in response to the "Renewed Petition Under Rule 1.47(b)" filed 02 April 2007 in the United States Patent and Trademark Office (USPTO).

### **BACKGROUND**

On 11 January 2007, applicant was mailed a decision dismissing applicant's petition under 37 CFR 1.47(b). Applicant was afforded two months to file any request for reconsideration and advised that this period could be extended pursuant to 37 CFR 1.136(a).

On 02 April 2007, applicant responded with the present renewed petition accompanied by a petition for a one-month extension of time. With the filing of the petition for a one-month extension of time and payment of the appropriate extension fee, the present response is considered timely filed.

### **DISCUSSION**

As detailed in the decision mailed 11 January 2007, a petition under 37 CFR 1.47(b) must be accompanied by: (1) the requisite petition fee under 37 CFR 1.17(h); (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort; (3) a statement of the last known address of the non-signing inventor; (4) an oath or declaration executed by the 37 CFR 1.47(b) applicant on behalf of and as an agent for the non-signing inventor; (5) proof of proprietary interest in the application; and, (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damages. Applicant previously satisfied items (1), (3), (4) and (6).

With the filing of the present renewed petition and supporting documentation, applicant has satisfied item (5).

As to item (2), as explained in the previous decision Manual of Patent Examination Procedure (MPEP), Section 409.03(d) states that, "Before a refusal can be alleged, it must be demonstrated that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor for signature."

In the present case, applicant has not provided any firsthand evidence detailing the presentation of the appropriate papers to the inventors and their refusal to execute an oath or declaration. In order to proceed pursuant to 37 CFR 1.47(b), applicant must show that all six of the listed inventors either refuse to execute an oath or declaration or cannot be found after a diligent effort. The statement of Helmut Richter states that China Patent Agent Ltd provided the specification and declaration to Professor Wang. However, applicant has not included any copies of the presentation of the papers in question. Professor Wang does not identify what was sent to him in his e-mail of 01 August 2005, only that "This is what we asked your associates China Patent Agent Ltd to inform you when they asked us to sign the forms for the patent applications..." (Boldness added). A firsthand accounting of the presentation of the papers and/or copies of what was sent is necessary before this item can be satisfied.

Regarding item (4), applicant has presently provided a declaration executed by an authorized officer of the corporate applicant which includes his title. However, the declaration does not satisfy 37 CFR 1.497(a)(3) as it does not provide the citizenship of the inventors.

In light of the above, it is not possible to grant applicant's petition at this time.

### CONCLUSION

For the reasons stated above, applicant's petition under 37 CFR 1.47(b) is **DISMISSED**, without prejudice.

Any reconsideration on the merits of this petition must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(b)." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be directed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

A handwritten signature in black ink, appearing to read 'Derek A. Putonen'.

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